

Remarks/Arguments

Applicants respectfully traverse the rejections and request reconsideration.

I. Objections to the Specification

The Examiner objected to the amendments filed on February 26, 2007 to pages 20 and 21 of the specification, on the grounds that the amendments introduced new matter, under 35 U.S.C. §132(a). Applicants have amended the specification to cancel the new matter.

II. Claim Rejections - 35 U.S.C. Section 102(e)

The Examiner has rejected claims 49 and 63 under section 102(e) based on Lewis (U.S. 2002/0002459 A1). Applicants have amended independent claim 49 to add the limitations of claim 58, which has been cancelled. Accordingly, Lewis does not anticipate claim 49 as amended, or claim 63, which depends from claim 49, as it does not disclose all of the elements of the claims.

III. Claim Rejections - 35 U.S.C. Section 103

The Examiner has rejected claims 50-52 as obvious over Lewis in view of Texas Association of Counties Job Descriptions or Lewis in view of Martin; claims 53-56 as obvious over Lewis in view of Saraki; claim 57 as obvious over Lewis, Saraki, and Kinkoph ("How to Use Microsoft Office 2000"); claims 58-62 as obvious over Lewis in view of Kinkoph; claim 59 as obvious over Lewis in view of St. James; claim 60 as obvious over Lewis in view of St. James and Kinkoph; claim 61 as obvious over Lewis in view of Martin and Kinkoph; and claim 64 as obvious over Lewis in view of Texas Association of Counties, Martin, Saraki, St. James, and Kinkoph.

These combinations of references do not render claims 49-57 and 59-64 obvious. Objective evidence of unexpected results, commercial success, long-felt but unsolved needs, failure of others, and other factors must be considered by the Examiner in determining obviousness under section 103. (MPEP section 716.01(a).) The Declaration of Linda B. Vanderwold submitted herewith contains factual evidence of these factors that is highly relevant and demonstrates the patentability of Applicants' claims.

A. Unexpected Results.

The claimed software has produced unexpected results. In a survey of users of the method and software, 100% of the respondents agreed that the method and software helped them in their business writing and made their writing easier to read. (Vanderwold Declaration, ¶ 7.) 100% of the respondents were surprised by the positive results they achieved using the method and software. (*Id.*) 95% of the respondents agreed that the method and software increased the clarity and conciseness of their writing and the reader comfort of their audience. (*Id.*)

Users of the VanWrite® method and software have commented (see Vanderwold Declaration, ¶ 6.):

- “VanWrite® really breaks down writing and the final outcome is amazing.”
- “This program gives me more confidence about writing. I finally understand sentence structure.”
- “I want to thank you for the outstanding writing workshop...you provided invaluable information...All of us have already put to use the VanWrite® writing method.”
- The VanWrite® method...allows its followers to edit and revise in confidence.”

B. Commercial Success

The claimed software has been commercially successful. 3,155 software licenses have been issued, producing over \$200,000 in revenue. (Vanderwold Declaration, ¶ 5.) The VanWrite® method and software have been taught at over 1800 paid seminars by Ms. Vanderwold in both the public and private sectors. (*Id.*) The public agencies include the Office of the Attorney General of the State of California, the California Lottery, the California Department of Justice, the California Department of Pesticide Regulation, and the California State and Consumer Services Agency. (*Id.* at ¶ 6.) The method and software are described in a DVD and an interactive e-learning program that have been sold worldwide. (*Id.* at ¶ 5.)

Dunn & Bradstreet have rated VanWrite Writing Consultants for customer satisfaction at 1.1 on a scale of 1 to 5 with 1 being the highest. (Vanderwold Declaration, ¶ 8.) 97% of the users of the VanWrite® method and software rate the programs, method, and software as "excellent." (*Id.*)

C. Long-Felt but Unsolved Need

79% of the survey respondents agreed that they have wanted a product that improved writing clarity and did not find one until they used the VanWrite® method and software. (Vanderwold Declaration, ¶ 7.) 100% of the respondents agreed that the VanWrite® method provides specific guidelines that are easy to apply, rather than general writing tips. (*Id.*) Many users have wondered why no one had ever before taught them what the VanWrite® method and software teaches. (Vanderwold Declaration, ¶ 8.)

Users of the VanWrite® method and software have commented (see Vanderwold Declaration, ¶ 6):

- "VanWrite® is easy, and straight to the point."
- "This method of writing can greatly improve my communications."
- "Engineers appreciate the objectivity of the VanWrite® method."
- "Your VanWrite® method saved hours of revising time...everyone's writing improved..."
- "Our employees not only grasped your 'Reader Comfort' principles, but immediately began to practice and share them...The letters and memos produced for my signature today are clear and concise. I no longer need to spend hours editing or re-writing."

D. Failure of Others

74% of survey respondents agreed that other software products helped with spelling, grammar, and word choice, but did not present an effective method to improve business writing. (Vanderwold Declaration, ¶ 7.) 71% agreed that other software products did not help them as much as the VanWrite® method and software (*Id.*) 79% agreed that the VanWrite® method and software addressed the problems of business writing better than existing methods and products." (*Id.*)

IV. Conclusion

Based on the discussion and evidence set forth above and in the Declaration of Linda Vanderwold, Applicants' claims as amended are patentable. Applicants respectfully request that the Examiner pass this case to issue.

Respectfully submitted,

Date: October 30, 2007

By: Audrey A. Millemann
Audrey A. Millemann (Reg. No. 44,942)
Attorney for Applicants
Weintraub Gensleia Chediak
Law Corporation
400 Capitol Mall, 11th floor
Sacramento, Ca 95814
(916) 558-6033